



## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2018-0104, Notice 1]**

#### **Spartan Motors USA, Inc., Receipt of Petition for Decision of Inconsequential**

#### **Noncompliance**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** Spartan Motors USA, Inc. (Spartan), has determined that certain model year (MY) 2017-2019 Spartan Emergency Response Gladiator and Metro Star chassis do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 121, *Air Brake Systems*. Spartan filed a noncompliance report dated December 26, 2018, subsequently petitioned NHTSA on November 12, 2018, and amended on July 31, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of petition and offers the opportunity for public comment.

**DATES:** The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket number and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision also will be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also

be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477-78).

#### **SUPPLEMENTARY INFORMATION:**

**I. Overview:** Spartan has determined that certain MY 2017-2019 Spartan Emergency Response Gladiator and Metro Star chassis cabs do not fully comply with paragraph S5.3.3.1(a) of FMVSS No. 121, *Air Brake Systems* (49 CFR 571.121). Spartan filed a noncompliance report dated December 26, 2018, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*. Spartan subsequently petitioned NHTSA on November 12, 2018 (and amended this petition on July 31, 2019) seeking exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Spartan's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

**II. Chassis Cabs Involved:** Approximately 15 MY 2017–2019 Spartan Emergency Response Gladiator and Metro Star chassis cabs manufactured between November 16, 2016, and October 30, 2018, are potentially involved.

**III. Noncompliance:** Spartan described the noncompliance as the service brake application timing exceeds the 0.45 timing requirement as specified in paragraph S5.3.3.1(a) of FMVSS

No. 121.

**IV. Rule Requirements:** Paragraph S5.3.3 of FMVSS No. 121 includes the requirements relevant to this petition. Each service brake system shall meet the requirements of paragraph S5.3.3.1(a). With an initial service reservoir system air pressure of 100 psi, the air pressure in each brake chamber shall, when measured from the first movement of the service brake control, reach 60 psi in not more than 0.45 seconds in the case of trucks and buses.

**V. Summary of Spartan's Petition:** Spartan described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it related to motor vehicle safety.

In support of its petition, Spartan submitted the following reasoning:

1. Section 5.3.3.1 of FMVSS No. 121 defines the amount of pressure (60 psi) that must be achieved in front brake chambers. Further, it also defines a “not to exceed” time (0.45 seconds) in which that pressure at the brake chamber must be achieved. This is not interpreted to mean brakes are to be applied at 60 psi but rather a certain pressure at the brake chamber will be achieved. Brakes will be applied nearly instantaneously after actuation of the treadle valve.
2. Spartan conducted three tests on a sample chassis cab of similar brake system configuration to those subject to the identified noncompliance. The reported average was used to determine the actual results in comparison to the requirements. By rounding the average of the three tests for each sample, Spartan identified it exceeds the requirements by 0.04-0.05 seconds.
3. The measurement of time, in this case, is for when air pressure at the chamber reaches 60 psi. As stated, the brakes are still being applied irrespective of achieving the 60 psi pressure at the front brake chambers. The impact of being

- 0.044 to 0.05 seconds above the requirement of 0.45 seconds would have very little impact (approximately 4ft @ 60 mph) to stopping distance of the vehicle and would not impede the capability of the vehicle being able to stop.
4. According to the Driver's License Manual, stopping distance is impacted by driver perception distance and reaction distance. Other factors include speed and gross weight of the vehicle. These attributes would appear to have a more significant impact on overall stopping distance, than 0.05 seconds of timing, for the air pressure to reach 60 psi at the front brake chambers.
  5. From a speed of 60 mph, vehicles affected by this condition are required to achieve a complete stop in 310 feet. It would take approximately 3.52 seconds for vehicles to stop at this rate of speed. Vehicles affected by the condition that has resulted in the identified noncompliance as capable of stopping, within the distance of 310 feet, as prescribed by FMVSS No. 121 and would still be able to stop within the required stopping distance.

Spartan concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that

Spartan no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Spartan notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

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